

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

AZAYVIAN RUSSELL

PLAINTIFF

V.

CIVIL NO. 3:24-cv-47-HTW-LGI

NEWTON COUNTY SHERIFF'S
DEPARTMENT, ET AL.

DEFENDANTS

ORDER REQUIRING PLAINTIFF TO RESPOND

Pro se Plaintiff Azayvian Russell ("Plaintiff") brings this civil rights Complaint under 42 U.S.C. § 1983. Plaintiff is presently incarcerated in the Scott County Jail. It appears Plaintiff is suing the Newton County Sheriff's Department, the Scott County Sheriff's Department, the City of Newton Police Department, Jody Pennington, Randy Patrick, and Brad Emmusdon.

Section 1983 provides, in pertinent part, "[e]very *person* who, under color of [state law], subjects . . . any citizen . . . thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured." 42 U.S.C. § 1983 (emphasis added). The Court notes that the Newton County Sheriff's Department, the Scott County Sheriff's Department, and the City of Newton Police Department are not separate legal entities that may be sued under § 1983. However, a county and municipality may be held liable in certain circumstances. Since Plaintiff is proceeding *pro se*, the Court will provide Plaintiff with an opportunity to state if he is naming Newton County, Scott County, or the City of Newton as Defendants in place of a sheriff's department or a police department. The Court also directs Plaintiff to provide additional information regarding his claims. Accordingly,

IT IS HEREBY ORDERED that on or before September 12, 2024, Plaintiff shall file a written response to answer the following:

- (a) Are you naming Newton County as a Defendant in place of the Newton County Sheriff's Department?

If your answer is **yes**, specifically state how Newton County allegedly violated your

constitutional rights;

If your answer is **no**, you may voluntarily dismiss Newton County Sheriff's Department as a Defendant;

- (b) Are you naming Scott County as a Defendant in place of the Scott County Sheriff's Department?

If your answer is **yes**, specifically state how Scott County allegedly violated your constitutional rights;

If your answer is **no**, you may voluntarily dismiss Scott County Sheriff's Department as a Defendant;

- (c) Are you naming the City of Newton as a Defendant in place of the City of Newton Police Department?

If your answer is **yes**, specifically state how the City of Newton allegedly violated your constitutional rights;

If your answer is **no**, you may voluntarily dismiss the City of Newton Police Department as a Defendant;

- (d) If you are naming Jody Pennington as a Defendant, how did he allegedly violate your constitutional rights? If you are not naming Pennington as a Defendant, your response should state that Pennington is not named as a Defendant;

- (e) If you are naming Randy Patrick as a Defendant, how did he allegedly violate your constitutional rights? If you are not naming Patrick as a Defendant, your response should state that Patrick is not named as a Defendant; and

- (f) If you are naming Brad Emmusdon as a Defendant, how did he allegedly violate your constitutional rights? If you are not naming Emmusdon as a Defendant, your response should state that Emmusdon is not named as a Defendant.

The Court warns Plaintiff that if he fails to fully comply with this Order or any Order of this Court in a timely manner or if he fails to advise the Court of a change of address, the Court will dismiss this case.

SO ORDERED AND ADJUDGED, this the 22nd day of August, 2024.

s/ LaKeysha Greer Isaac
UNITED STATES MAGISTRATE JUDGE